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Written statement* submitted by the Family and Life, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[31 August 2015]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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The importance of interpreting the right to life correctly

Written Submission of Family & Life, Ireland to the UN Human Rights Council for General Debate at the 30th Session, September-October, 2015

As the UN Human Rights Committee continues to prepare General Comment No. 36: Article 6 - the Right to Life, Family & Life wishes to remind the members of the Human Rights Council of the authentic meaning of Article 6 and the importance of the right to life.

The *Travaux Préparatoires* for Article 6 of the ICCPR make clear that the drafters of the convention did not intend to exclude unborn children from its protection.

Article 6(5) protects the right to life of unborn children whose mothers have been sentenced to death ("Sentence of death ... shall not be carried out on pregnant women"). The *travaux préparatoires* show that the provision was added out of consideration for "the interests of the unborn child."

Article 6(1) begins, "Every human being has the inherent right to life." This wording, which was voted through by an overwhelming majority of delegates, contained an implicit though clear natural law stance, "the right to life is not a right conferred on the individual by society."

An "abortion proposal", providing a derogation from the right to life in certain, limited, circumstances was rejected primarily because it was seen as too wide a derogation and failed sufficiently to respect the rights of the unborn, rights the "abortion proposal" implicitly assumed as generally given.

Four elements of Article 6 and its drafting are pertinent to deciding on the most accurate interpretation of what Article 6 means for unborn human rights. These are Article 6(5)'s protection of unborn children in the realm of capital punishment, Article 6(1)'s natural law type assertion that "Every human being has the inherent right to life", the fact that subsection 6(5) is coherent to the extent that it is predicated upon subsection 6(1), and the fact that out of the four positions advocated for during drafting on the intersection between abortion and the rights of the unborn, two explicitly supported the principle of unborn human rights, one implicitly supported such a principle to some degree, while the last was a composite position that did not explicitly argue against the principle.

The most accurate interpretation of the final text of the ICCPR's Article 6, one that pays full attention to the ordinary meaning of the text and to the entirety of the various debates, is that the Article does recognise the unborn human as a human rights subject and, although it also represented a sort of "compromise", it was not strictly a compromise over whether unborn children do or do not deserve human rights protection. Instead it is more accurately described as a compromise over to what precise extent the human rights of unborn children should be protected, and specifically a compromise over whether abortion in some limited circumstances is a permissible derogation from the right to life of unborn children.

Thus the unborn possess human rights according to the ICCPR even if the precise contours of those human rights in relation to limited abortion legislation are left undefined. It is certainly not, therefore, a substantive and sweeping "silence" on the human rights status of unborn children. Further, the *travaux préparatoires* make it clear that far from abortion being considered a human right, it was cast far more in terms of being a violation of the human right to life.

Family & Life is a well-established pro-life and pro-family organisation based in Dublin, with a large network of supporters throughout Ireland. It promotes respect for the value and dignity of human life from conception to natural death. Family & Life was granted ECOSOC special consultative status in 2013.